

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
OFFICE OF THE CLERK
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JAMES M. LYNCH
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WORCESTER OFFICE

595 MAIN STREET
WORCESTER, MA 01608-2076
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9/7/05

United States District Court
District of Massachusetts
Harold D. Donohue Federal Building & Courthouse
595 Main Street
Worcester, MA 01608

05-40155

Bankruptcy Case/Adversary Preceeding In Re: Millivision, Inc.
Bankruptcy Case/Adversary Preceeding In Number: 03-47109 hjb

The following is being transmitted to your court:

- ☒ Copy of Notice of Appeal with Order
- ☒ Copy of Bankruptcy Docket
- ☒ Copy of Election to have appeal heard in District Court
- ☐ Copy of Motion for Leave to Appeal With/Without Objections
- ☒ Other-Statment of Issue; Designations of Record.

Please acknowledge receipt of these documents by signing the copy of this letter and returning it to this office for filing.

United States Bankruptcy Court
1101 O'Neill Federal Building
10 Causeway Street
Boston, MA 02222-1074

United States Bankruptcy Court
211 Donohue Federal Building
595 Main Street
Worcester, MA 01608-2076

(161)

Date: 9/7/05

James M. Lynch
Clerk, U.S. Bankruptcy Court

By the Court,

Yingmay Steele
Deputy Clerk
508-770-8963

Receipt is acknowledged of the enclosures referred to above.

District Court Docket Number: 05-40155
Date: 9/7/05

By: MA LA
Deputy Clerk

05-40155

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

NOTICE OF APPEAL

Now comes David W. Ostrander, Chapter 7 Trustee ("Trustee") in the above captioned case, by his counsel, and appeals under 28 U.S.C. § 158(a) or (b) from the judgment, order, or decree of the bankruptcy judge, the Honorable Henry J. Boroff, dated July 28, 2005, regarding the "Objection Of Jeffrey Alholm To Chapter 11 Trustee's Stated Amount To Cure". A copy of the Order has been attached hereto as **Exhibit A**.

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Jeffrey Alholm
David J. Noonan, Esq.
Law Office Of David J. Noonan
228 Triangle Street
Amherst, MA 01002
Tel: 413-549-5491 Fax: 413-549-5156

David W. Ostrander, Trustee
John C. Sikorski, Esq.
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
P.O. Box 15609
Springfield, MA 01115
Tel: 413-732-2301 Fax: 413-785-4658

David W. Ostrander, Trustee, Appellant

Dated: August 5, 2005

By: /s/ John C. Sikorski
John C. Sikorski, Esq., BBO# 461970
Attorney for Appellant
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
P.O. Box 15609
Springfield, MA 01115
Tel: 413-732-2301 Fax: 413-785-4658

If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the District Court. The appellant may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal. Any other party may elect, within the time provided by 28 U.S.C. § 158(c), to have the appeal heard by the District Court.

(443)
8/5/05

United States Bankruptcy Court
District of Massachusetts

In re

MILLIVISION, INC.,

Debtor

Chapter 7
Case No. 03-47109

ORDER

For the reasons set forth in this Court's Memorandum of Decision of even date, the "Objection of Jeffrey Alholm to Chapter 11 Trustee's Stated Amount to Cure" is SUSTAINED in part and OVERRULED in part. The Cure Amount is established as \$132,170.27. The Trustee shall pay such amount to Alholm within seven (7) days of this order becoming final.¹

DATED: July 28, 2005

By the Court,

Henry John Burgh

Henry J. Boroff
United States Bankruptcy Judge

¹To the extent required under federal and/or state law, the Trustee may withhold and pay over such amounts as he may deem appropriate for federal and/or state taxes.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re:
MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

CERTIFICATE OF SERVICE

I, John C. Sikorski, hereby certify that I served a copy of the Trustee's Notice Of Appeal and Election To Proceed To District Court on the following by first class mail, postage prepaid, except as otherwise indicated, on August 5, 2005:

Office of the U. S. Trustee
446 Main Street, 14th Floor
Worcester, MA 01608
(via electronic notice only)

David J. Noonan, Esq.
Counsel To Jeffrey Alholm
228 Triangle Street
Amherst, MA 01002
(via electronic notice only)

David W. Ostrander
Chapter 7 Trustee
Ostrander Law Office
P.O. Box 1237
Northampton, MA 01061-1237
(via electronic notice only)

Jeffrey Alholm
5299 South 4575 West
Pendleton, IN 46064

/s/ John C. Sikorski
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
P.O. Box 15609
Springfield, MA 01115

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:
MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

ELECTION TO PROCEED TO DISTRICT COURT

Now comes David W. Ostrander, Trustee, Appellant, by his counsel, and elects to have the appeal of the Bankruptcy Court's Order on the "Objection Of Jeffrey Alholm To Chapter 11 Trustee's Stated Amount To Cure", entered by the Court on July 28, 2005, be heard by the District Court rather than the Bankruptcy Appellate Panel.

Dated: August 5, 2005

David W. Ostrander, Trustee, Appellant

By: /s/ John C. Sikorski
John C. Sikorski, Esq., BBO# 461970
Attorney for Appellant
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
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Tel: 413-732-2301 Fax: 413-785-4658

(445)

05-40155

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Millivision, Inc.

Chapter 7
Bankruptcy Case 03-47109
Judge Henry J. Boroff

NOTICE OF FILING OF APPEAL TO DISTRICT COURT

A Notice of Appeal and an Election to have the appeal heard in the United States District Court were filed on **AUGUST 5, 2005** in the above case/proceeding.

Please refer to 28 U.S.C. § 158(c)(1), Federal Rule of Bankruptcy Procedure 8001 et seq., and Local Rule 203 of the U.S. District Court. Also, pursuant to Federal Rule of Bankruptcy Procedure 8006 the Appellant must file with the Clerk of this Court, a Designation of the Record on Appeal and a Statement of the Issues to be presented on Appeal, within ten (10) days of the filing of the:

1. Notice of Appeal, or
2. Entry of an Order granting leave to appeal, or
3. Entry of an Order disposing of the last timely motion outstanding of a type specified in Rule 8002(b),

whichever is **later**.

A copy of the Designation and Statement shall be served by the Appellant on the Appellee.

The Appellee may file a Designation of Additional Papers to be included in the Record on Appeal within ten (10) days after service of the Appellant's Designation and Statement.

Upon the filing of Designation(s) of Record and Statement of Issues on Appeal, the Appellant (and Appellee if additional papers have been designated) shall, provide the Clerk with copies of all papers which have been designated for inclusion in the Record on Appeal within twenty-five (25) days of the issuance of this notice.

It is the duty of the parties to insure that the Record on Appeal is complete. The Clerk of the Bankruptcy Court will transmit the Record on Appeal as assembled by the parties.

Date: 8/5/05

James M. Lynch
Clerk, U.S. Bankruptcy Court

By the Court,

Yingmay Steele
Deputy Clerk
(508) 770- 8963

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Certificate of Service

District/Off: 0101-
4

User: yms

Date printed: 8/5/2005

Case: 03-47109

Form ID: ntdc

Total: 3

aty David J. Noonan	Law Office of David J. Noonan	228 Triangle Street	Amherst, MA 01002
aty David W. Ostrander	Ostrander Law Office	P.O. Box 1237	36 Service Center Road Northampton, MA 01061-1237
aty John C. Sikorski	Robinson Donovan, P.C.	1500 Main Street	Suite 1600 Springfield, MA 01115

05-40155

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re:
MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

APPELLANT'S DESIGNATION OF ISSUE ON APPEAL

Whether the Bankruptcy Judge improperly allocated the burden of proof to the Debtor on the issue of whether the claimant, Jeffery Alholm, made diligent efforts to secure comparable employment and certify that he had done so, so as to be eligible to receive additional monthly severance payments between July 1, 2003 and January 1, 2004; and if so, whether a reasonable trier of fact could find that the claimant, Jeffery Alholm, met his burden of proof so as to entitle him to additional severance payments from the Debtor after July 1, 2003.

Dated: August 18, 2005

David W. Ostrander, Trustee, Appellant

By: /s/ John C. Sikorski
John C. Sikorski, Esq., BBO# 461970
Attorney for Appellant
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
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(456)

05-40155 

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

APPELLANT'S DESIGNATION OF THE RECORD ON APPEAL

Now comes David W. Ostrander, Chapter 7 Trustee ("Trustee") in the above captioned case, by his counsel, and designates the following items for the record on appeal:

1. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated November 19, 2004, more specifically, pages 17-18, 71-82, 96-103, 151-152, 175-176; and 370 - 371 (# 371);
2. Exhibits to November 19, 2004 Evidentiary Hearing, more specifically, numbers A1, A2, A23, A24, A25 and A26;
3. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated December 20, 2004, pages 58-59, 74 (# 369);
4. Debtor's Request for Findings of Fact and Rulings of Law (# 379);
5. Memorandum and Order of the Honorable Henry J. Boroff, dated July 28, 2005 (#s 437 and 438); and
6. Notice of Appeal dated August 5, 2005 (# 443).

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Jeffery Alholm
David J. Noonan, Esq.
Law Office Of David J. Noonan
228 Triangle Street
Amherst, MA 01002
Tel: 413-549-5491 Fax: 413-549-5156

David W. Ostrander, Trustee
John C. Sikorski, Esq.
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
P.O. Box 15609
Springfield, MA 01115
Tel: 413-732-2301 Fax: 413-785-4658

(457)

David W. Ostrander, Trustee, Appellant

Dated: August 18, 2005

By: /s/ John C. Sikorski
John C. Sikorski, Esq., BBO# 461970
Attorney for Appellant
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
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Springfield, MA 01115
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re:

MILLIVISION, INC.

Debtor

Chapter 7

Case No. 03-47109-HJB

APPELLANT'S AMENDED DESIGNATION OF THE RECORD ON APPEAL

Now comes David W. Ostrander, Chapter 7 Trustee ("Trustee") in the above captioned case, by his counsel, and designates the following items for the record on appeal:

1. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated November 19, 2004, more specifically, pages 17-18, 71-82, 96-103, 151-152, 175-176 (# 371);
2. Exhibits to November 19, 2004 Evidentiary Hearing, more specifically, numbers A1, A2, A23, A24, A25 and A26;
3. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated December 20, 2004, pages 58-59, 74 (# 369);
4. Debtor's Request for Findings of Fact and Rulings of Law (# 379);
5. Memorandum and Order of the Honorable Henry J. Boroff, dated July 28, 2005 (#s 437 and 438); and
6. Notice of Appeal dated August 5, 2005 (# 443).

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Jeffery Alholm
David J. Noonan, Esq.
Law Office Of David J. Noonan
228 Triangle Street
Amherst, MA 01002
Tel: 413-549-5491 Fax: 413-549-5156

David W. Ostrander, Trustee
John C. Sikorski, Esq.
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Springfield, MA 01115
Tel: 413-732-2301 Fax: 413-785-4658

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8/29/05

David W. Ostrander, Trustee, Appellant

Dated: August 29, 2005

By: /s/ John C. Sikorski
John C. Sikorski, Esq., BBO# 461970
Attorney for Appellant
Robinson, Donovan, P.C.
1500 Main Street, Suite 1600
P.O. Box 15609
Springfield, MA 01115
Tel: 413-732-2301 Fax: 413-785-4658

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE: Millivision, Inc.

DEBTOR

CHAPTER 7
CASE NO. 03-47109-HJB

APPELLEE'S DESIGNATION OF THE RECORD ON APPEAL

Now comes Jeffrey Alholm ("Aholm") in the above captioned case, by his counsel, and designates the following items for the record on appeal:

1. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated November 19, 2004, more specifically, pages 14-19, 58-61, 71-82, 96-103, 153-154, 175-176; (Docket # 371); and
2. Exhibits to November 19, 2004 Evidentiary Hearing, more specifically, numbers A1, A2, A 12, A20, A21, A23, A24, and A25; and
3. Transcript of Evidentiary Hearing on (#245) Objection to Cure Amount for Jeffrey Alholm Before the Honorable Henry J. Boroff, J.U.S.B.C., dated December 20, 2004, pages , 33-34, 51-53, 79-83, 91-92, 95-98, (Docket # 369); and
4. Aholm's Request for Findings of Fact (Docket # 377); and
5. Aholm's Request for Rulings of Law (Docket # 378); and
6. Aholm's Bench Brief (Docket # 376); and

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8/26/05

7. Memorandum and Order of the Honorable Henry J. Boroff, dated July 28, 2005
(#s 437 and 438); and

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Jeffrey Alholm
David J. Noonan, Esq.
228 Triangle St.
Amherst, MA 01002
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David W. Ostrander, Trustee
John C. Sikorski, Esq. Robinson, Donovan, P.C.
1500 Main Street, Suite 1600 P.O. Box 15609
Springfield, MA 01115
Tel: 413-732-2301
Fax: 413-785-4658

Respectfully, submitted this the 26th day of August, 2005.

Jeffrey Alholm
By His Counsel:

/S/ David J. Noonan
David J. Noonan, Esq.
228 Triangle St.
Amherst, MA 01002
Tel: 413-549-5491
BBO# 373260

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE: Millivision, Inc.

DEBTOR

CHAPTER 7
CASE NO. 03-47109-HJB

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Jeffrey Alholm's APPELLEE'S DESIGNATION OF THE RECORD ON APPEAL were served upon Counsel for the Chapter 11 Trustee by mailing the same, first class mail, postage prepaid to said Counsel on this the 26th day of August, 2005.

Respectfully submitted this the 26th day of August, 2005.

S/S David J. Noonan
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Amherst, MA 01002
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